Central Intelligence Agency

Washington, D.C. 20505

Mr. Edward F. Willett, Jr.
Law Revision Counsel
House of Representatives
Washington, D.C. 20515

Dear Mr. Willett:

I am writing to provide you the comments of the Central Intelligence Agency on H.R. 3321, a bill to revise, codify and enact without substantive change the provisions of Title 8 of the United States Code relating to the immigration and naturalization laws.

The Agency has carefully reviewed the provisions of H.R. 3321. While it has no general objections to the bill, there are two items of concern to the Agency which I wish to bring to your attention.

Section 7 of the CIA Act Ought Not To Be Included in H.R. 3321's Codification of the Immigration Laws

Under current law, the Director of Central Intelligence (acting in conjunction with the Attorney General and the Commissioner of Immigration and Naturalization) is vested with the authority to cause the admission to permanent resident alien status of up to one hundred persons per year, without regard to their inadmissibility under the immigration laws, if that admission is "in the interest of national security or essential to the furtherance of the national intelligence mission". This authority was granted to the Director by the Central Intelligence Agency Act of 1949, Act of June 20, 1949 and is found in Title 50 of the United States Code, the Title relating to national security affairs (50 U.S.C.§403h).

The authority granted by Section 7 is vital to the Agency's mission. As such, Section 7 has traditionally been viewed as part of the core of the laws providing for the intelligence operations of the United States, not as a part of the laws governing immigration. The Congress has recognized this on several occasions. For example, in 1949, during its consideration of the CIA Act of that year, the Congress saw fit to include Section 7 in that Act, rather than in the immigration laws of the time. Again, in 1952, when considering

the Immigration and Nationality Act of that year, the Congress did not include Section 7 in that Act but determined that it should remain in the CIA Act.

H.R. 3321 would alter this situation by repealing Section 7 and reenacting it (with some substantive change as noted below) as Section 1314 of the newly-codified Title 8 relating to immigration and naturalization. This would have the effect of removing this important intelligence authority from the body of intelligence laws and placing it within the general immigration laws. Section 7, however, is a central part of the former; its relationship to the latter is, on the other hand, only secondary. As such, the Agency believes that Section 7 should remain as part of the intelligence laws. It should not be transferred to the general immigration laws, especially through the vehicle of codification legislation which, by nature, affords little opportunity to give full recognition to such important considerations.

No Change Should Be Made in the Substance of Section 7

Not only would H.R. 3321 transfer the authority contained in Section 7 to the generally immigration laws, it would also make two substantive changes in that authority. The Agency is seriously concerned about these changes and believes, in any event, that substantive changes, such as these, ought not be made through the vehicle of codification legislation.

Section 7 currently provides in pertinent part as follows:

> Whenever the Director...shall determine that the entry of a particular alien...is in the interest of national security or essential to the furtherance of the national intelligence mission, such alien...shall be given entry into the United States for permanent residence without regard to (his) inadmissibility under the immigration or any other laws and regulations or to the failure to comply with such laws and regulations pertaining to admissibility (emphasis added)....

Section 1314 provides in pertinent part as follows:

> (l) Notwithstanding another law or regulation on the exclusion or the requirements for admission of aliens, the Attorney General shall admit an alien... to the United States for lawful permanent residence if the Attorney General and the Director decide that the admission of the alien is-- (A) in the interest of the United States security; or (B) essential to the United States intelligence mission (emphasis added)....

By deleting the phrase "furtherance of" from the language in Section 7 used to describe the operative standard for exercise of this authority, Section 1314 narrows the scope of admissions which can be made under the authority. Further, the change, from Section 7 to Section 1314, in the language used to describe the field of exclusions which can be overridden by exercise of this authority arguably narrows that field. The effect of these changes would be to restrict the scope and flexibility of this important authority. Such a restriction represents a substantive change in existing law and one which is of very serious concern to the Agency. Accordingly, the Agency objects to the inclusion of Section 1314 in H.R. 3321.

I hope that the Office of the Law Revision Counsel will give these comments careful consideration in its review of H.R. 3321. Any questions should be directed to [redacted] Chief, Legislation Division, Office of Legislative Liaison [redacted]

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The Agency appreciates the opportunity to comment on this important legislation.

Sincerely,

Charles A. Briggs
Director, Office of Legislative Liaison

problems faced by those wh[illegible]e the FOIA to request documents. Proposals from the Reagan administration are principally designed to allow agencies to limit the availability of government information. The business community has presented useful amendments, but these only address the procedural problems faced by submitters of confidential business information.

Some existing bills—including my own bill (H.R. 1882)—do contain provisions that would make it easier for requesters to use the FOIA. But no comprehensive package of changes to help requesters has been offered. Now with the Freedom of Information Public Improvements Act of 1985, we have a set of amendments designed to address the shortcomings of the act as viewed from the perspective of active users of the law.

I do not mean to suggest that this bill is perfect. It needs study and review as do other bills. But this proposal will provide some balance to the legislative debates and will help us to fashion a workable compromise.

I intend to begin more active consideration of FOIA legislation immediately. I will work with all interested parties to develop compromise legislation that will be acceptable to all. Hearings will be held on proposed legislation before any formal subcommittee action, but no hearings are scheduled at this time.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr ANNUNZIO] is recognized for 5 minutes.

[Mr. ANNUNZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

CODIFICATION OF TITLE 8, UNITED STATES CODE, "ALIENS AND NATIONALITY"

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. RODINO] is recognized for 5 minutes.

Mr. RODINO. Mr. Speaker, I am today introducing a bill to revise, codify, and enact without substantive change certain general and permanent laws, related to aliens and nationality, as title 8, United States Code. This bill has been prepared by the Office of the Law Revision Counsel as a part of the program of the office to prepare and submit to the Judiciary Committee of the House of Representatives, for enactment into positive law, all titles of the United States Code.

This bill makes no change in the substance of existing law.

Anyone interested in obtaining a copy of the bill and a copy of the draft report to accompany the bill should contact: Edward F. Willett, Jr., Law Revision Counsel, House of Representatives, H2-304, House Annex No. 2, Washington, DC 20515.

Persons wishing to comment on the bill should submit those comments to the Office of the Law Revision Counsel not later than October 31, 1985.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. ARMEY] is recognized for 60 minutes.

[Mr. ARMEY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

THE ARMENIAN GENOCIDE AND AMERICA'S OUTCRY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Connecticut [Mrs. JOHNSON] is recognized for 60 minutes.

Mrs. JOHNSON. Mr. Speaker, there have been few events in history that have evoked American sympathy and concern as did the Armenian genocide in Ottoman Turkey 70 years ago. But what is generally not known by our citizens or indeed by our colleagues in the Congress is the extent of American involvement in this tragedy as early as 35 years prior to the most brutal massacres of 1915-23.

It is for the purpose of reacquainting ourselves with this forgotten period of American history that I have requested this time on the House floor. The theme of this special order—the Armenian Genocide and America's outcry—stresses the efforts of the Congress over a period of 24 years to bring about an end to the killings and offer relief to the suffering.

House Joint Resolution 192, a resolution still pending before us, would commemorate the deaths of some 1.5 million Armenians during this period. To the dismay of many of us in the Congress, there has been a concerted attempt by the present Government of Turkey to see to it that the Armenian genocide be unremembered and that this commemorative resolution be defeated.

It goes without saying that the present Republic of Turkey is a valued NATO ally and that our two countries enjoy good relations with one another. This resolution is not in any way intended to slight Turkey or even to imply that modern Turkey had any involvement whatsoever in the tragic events under the Ottoman regime. For this very reason, it is unfortunate that modern Turkey has chosen to read into the resolution that which is not there.

Those who oppose the resolution claim that it is not the role of U.S. Congress to involve itself in writing history. Mr. Speaker, our Government has a proud record of speaking out repeatedly against the crimes committed under the Ottoman regime. Dating back at least to 1880, U.S. State Department officials in the Ottoman empire witnessed the excesses visited upon the Armenian population and cabled this information back to Washington. Our own ambassadors pleaded with Ottoman officials to stop the massacres. Our Secretaries of State were constantly expressing concern about these events. Seven U.S. Presidents during three decades offered America's sympathy to the Armenian sufferers. A U.S. Federal agency—Near East Relief—was [illegible] American humanit[illegible] this troubled region.

Most importantly, [illegible] the 54th and 66th Con[illegible] resolutions expressing [illegible] atrocities and calling for [illegible] stricken. The rediscovery o[illegible] olutions is extremely import[illegible] of us in the Congress. A vote [illegible] of House Joint Resolution [illegible] year can now be based on prec[illegible] the historical precedent set by [illegible] of our antecedents in this bod[illegible] lived during this tragic period [illegible] were made aware on a daily bas[illegible] the events unfolding in Asia Minor.

At the time these events were tak[illegible] place, it would have been unthinkab[illegible] to suggest that the Armenian popula[illegible] tion of Ottoman Turkey had not bee[illegible] specifically targeted for mass slaugh[illegible] ter. Yet, there are those presently in the U.S. Government who are substituting their own judgment for that of eyewitnesses and contemporaneous officials and who now declare that the history of these events is ambiguous. In 1982, the U.S. State Department issued this statement: "Because the historical record of the 1915 events in Asia Minor is ambiguous, the Department of State does not endorse allegations that the Turkish Government committed a genocide against the Armenian people." After 9 months of pressure, the Department finally said that the statement was not intended as a statement of policy, and that U.S. policy on the matter had not changed. The problem we still face is that we are left guessing as to what the U.S policy is on this matter.

Just 2 weeks ago, a U.N. Human Rights Subcommission accepted a new study which recognized the Armenian genocide. The study, entitled "Revised and Updated Report on the Question of the Prevention and Punishment of the Crime of Genocide," was opposed by the Government of Turkey because of the Armenian reference. Nonetheless, by a vote of 14 to 1 with 4 abstentions, the report was received with the Armenian genocide reference intact. The most significant aspect of the U.N. subcommittee vote was that the delegate from the United States voted in favor of accepting the report. I am encouraged that the United States gave its endorsement and I interpret this as a departure from previous attempts to cloud the history of the Armenian genocide.

There is nothing ambiguous about the Armenian genocide. The issue here is simply one of fact, and we in the Congress are seeking to affirm that which was established by prior Congresses in 1896 and 1920. We are trying to remember a very important period for all Americans. As I stated on June 4 prior to a suspension vote on House Joint Resolution 192, our ally relationship with modern Turkey must not require us to deny what is very real in the lives of our own people as a fact.

...05, U.S. CAPITOL
225-4121

U.S. HOUSE OF REPRESENTATIVES

PERMANENT SELECT COMMITTEE
ON INTELLIGENCE

WASHINGTON, DC 20515

October 16, 1985

Mr. Edward F. Willett, Jr.
Law Revision Counsel
House of Representatives
Room H2-304, House Annex No. 2
Washington, D.C. 20515

Dear Mr. Willett:

This is in response to Judiciary Committee Chairman Rodino's request, printed in the Congressional Record of September 17, 1985 (page H7514), for submission to you of comments on H.R. 3321 to revise and codify title 8, United States Code, relating to aliens and nationality. The bill states that its purpose is to revise, codify and enact existing laws without substantive change. I am concerned with two substantive changes made to the provisions of Section 7 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403h) as revised and codified in Section 1314(b) of title 8, contained in Section 1 of H.R. 3321.

Section 7 of the CIA Act permits the Attorney General, the Director of Central Intelligence and the Commissioner of Immigration, acting jointly, to admit to permanent U.S. residence individuals whose admission is in the interest of national security or essential to the furtherance of the national intelligence mission. The extraordinary authority granted in Section 7 of the CIA Act constitutes a critical element in the CIA clandestine human intelligence program. Any changes to Section 7 merit careful scrutiny because of its importance in meeting national intelligence needs.

The revision in H.R. 3321 of Section 7 of the CIA Act contains three substantive changes, as shown on the enclosed chart. One of these, deletion of the role of the Commissioner of Immigration, is appropriate for the reasons set forth on page 49 of the September 17, 1985 Judiciary Committee print of the report to accompany H.R. 3321. The other two substantive changes merit reconsideration.

The first substantive change of concern is the addition of the word "lawful" to qualify "permanent residence." Section 7 of the CIA Act currently refers to admission of an alien for "permanent residence," while proposed Section 1314(b) of title 8 refers to admission for "lawful permanent residence." The committee print of the report makes no reference to this change. If addition of the adjective "lawful" has legal consequences in light

of other provisions of the proposed title 8, the committee print of the report should contain some appropriate brief mention of those consequences. If, to the contrary, the addition of the word "lawful" is of no legal consequence, then the word should not be added, to avoid any confusion or future misinterpretation arising from the unexplained change. At a minimum, the Central Intelligence Agency and the Department of Justice should be consulted to ensure that the substantive change in the law will not hinder achievement of the intelligence goals which Section 7 of the CIA Act was originally enacted to help achieve.

The other substantive change of concern is the modification of the second of the two alternative determinations which precede admitting an alien. Section 7 of the CIA Act permits admission of an alien when it is determined that admission is either "in the interest of national security" or is "essential to the furtherance of the national intelligence mission." Proposed Section 1314(b) eliminates the "furtherance" language from the second alternative determination, and instead provides for admission which is "essential to the United States intelligence mission." The proposed requirement that admission be "essential to the United States intelligence mission" is more strict than the corresponding provision of existing law which provides for admission which is "essential to the furtherance of the national intelligence mission." It may be essential in accomplishing a particular activity which furthers the national intelligence mission to admit an alien, but that activity, although it furthers the mission, may not be essential to the mission, and thus admitting the alien could not be said to be essential to the mission. Section 1314(b) should be modified to preserve existing law, which provides for admission essential to furtherance of the mission, not admission essential to the mission. Accordingly, proposed section 1314(b)(2) should be changed to read:

"(B) essential to the furtherance of the United States intelligence mission.".

Thank you for your time and attention.

Sincerely,

Henry J. Hyde
Member of Congress

Enclosure

PROPOSED CODIFICATION

H.R. 3321, Sec. 1314(b) of Title 8

(b)(1) Notwithstanding another law or regulation on the exclusion or the requirements for admission of aliens, the Attorney General shall admit an alien and the alien's immediate family to the United States for lawful permanent residence if the Attorney General and the Director decide that the admission of the alien is—

(A) in the interest of United States security; or

(B) essential to the United States intelligence mission.

(2) No more than 100 individuals may be admitted to the United States in a fiscal year under this subsection.

CURRENT LAW

CIA Act of 1949, Sec. 7

SEC. 7. [50 U.S.C. 403h]. Whenever the Director, the Attorney General and the Commissioner of Immigration shall determine that the entry of a particular alien into the United States for permanent residence is in the interest of national security or essential to the furtherance of the national intelligence mission, such alien and his immediate family shall be given entry into the United States for permanent residence without regard to their inadmissibility under the immigration or any other laws and regulations, or to the failure to comply with such laws and regulations pertaining to admissibility: *Provided*, That the number of aliens and members of their immediate families entering the United States under the authority of this section shall in no case exceed one hundred persons in any one fiscal year.

PROPOSED CODIFICATION H.R. 3321, Sec. 1314(b)	PRESENT LAW CIA Act of 1949, Sec. 7	SUBSTANTIVE CHANGE
"(b)(1) Notwithstanding another law or regulation on the exclusion or the requirements for admission of aliens,"	"without regard to their inadmissibility under the immigration or any other laws and regulations, or to the failure to comply with such laws and regulations pertaining to admissibility"	[no substantive change]
"the Attorney General shall admit an alien and the alien's immediate family to the United States"	"such alien and his immediate family shall be given entry into the United States"	[no substantive change]
"for lawful permanent residence"	"for permanent residence"	addition of "lawful"
"if the Attorney General and the Director decide that the admission of the alien is-- (A) in the interest of United States security; or (B) essential to the United States intelligence mission."	"Whenever the Director, the Attorney General and the Commissioner of Immigration shall determine that the entry of a particular alien into the the United States for permanent residence is in the interest of national security or essential to the furtherance of the national intelligence mission,"	deletion of "Commissioner of Immigration" deletion of "to the furtherance of"
"(2) No more than 100 individuals may be admitted to the United States in a fiscal year under this subsection."	"Provided, that the number of aliens and members of their immediate families entering the United States under the authority of this section shall in no case exceed one hundred persons in any on fiscal year."	[no substantive change]

Office of the Law Revision Counsel
U.S. House of Representatives
Washington, D.C. 20515

October 25, 1985

Honorable Henry J. Hyde
Subcommittee on Legislation
Permanent Select Committee on Intelligence
H405 Capitol
U.S. House of Representatives
Washington, D.C. 20515

Dear Congressman Hyde:

Thank you for your prompt response in making comments on H.R. 3321, a bill to revise and codify title 8, United States Code, related to aliens and nationality.

Your first comment concerns the addition of the word "lawful" before "permanent residence" in section 1314(b)(1) of the revised title 8. You are correct that the draft report contains no explanation of this addition and it should have. We will change the revision notes for section 1314 in the report to explain that the word "lawful" is inserted for consistency with the defined term "lawfully admitted for permanent residence" in section 122 of the revised title 8 (that applies to the entire title) and for consistency with the status of "lawful permanent residence". The only permanent residence status is the "lawful permanent residence" status, and that phrase has been used consistently throughout the revised title 8.

Your second comment concerns the omission in section 1314(b)(1)(B) of the phrase "to the furtherance of" before "the United States intelligence mission". We agree that this phrase should not have been omitted and we will see that it is put back in.

Sincerely,

Edward F. Willett, Jr.

Edward F. Willett, Jr.
Law Revision Counsel

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Immigration Bill Finished

Panel Defers Plan On Foreign Workers

By Mary Thornton
Washington Post Staff Writer

The House immigration subcommittee finished work yesterday on a major revision of the nation's immigration laws, and split off for consideration next year a controversial proposal to allow large numbers of foreign workers into the country temporarily to pick perishable crops.

The Senate has finished work on similar legislation, which would provide criminal and civil penalties for employers who hire illegal aliens, an amnesty program for undocumented workers who have been in the United States for a fixed number of years, and increased funding for enforcement of U.S. immigration laws.

The Senate bill would grant legalized status to undocumented aliens who can prove they have lived in this country continuously since Jan. 1, 1980. The House bill has a Jan. 1, 1982, date, and would give legal status to many more aliens.

Another major difference between the two measures is in the area of foreign labor for U.S. farms.

The Senate bill would streamline and expand the H2 program, which allows the Labor Department to bring small numbers of foreign farm workers into the country for fixed periods. In addition, the Senate approved a new program that would allow admission of up to 300,000 foreign workers for up to nine months to pick perishable crops.

The provision was promoted by lobbyists for U.S. growers and was opposed by U.S. farm workers and organized labor.

The House Judiciary subcommittee yesterday rejected an attempt by Rep. Daniel E. Lungren (R-Calif.) to put a similar provision in the House bill. But Lungren made it clear that his proposal and others dealing with the foreign farm worker program will be dealt with when the bill is before the full committee and later on the House floor. The House passed a similar provision last year.

The House bill initially contained much the same streamlined H2 program as passed the Senate, but the subcommittee adopted several modifications yesterday proposed by Rep. Howard L. Berman (D-Calif.) to protect the rights of U.S. workers as well as foreign temporary workers.

One amendment, adopted 6 to 4, would give the foreign workers the right to free legal assistance.

Another would force farmers to provide American workers with the same inducements they give foreign temporary workers, such as a travel allowance to get to the job site. Berman argued that such protection is necessary for unemployed American workers, who, he said, would take the jobs if they could get to them.

His amendment also would make it illegal to use foreign temporary workers as strike-breakers.

Subcommittee Chairman Romano L. Mazzoli (D-Ky.) said he hoped the Judiciary Committee would begin action on the bill the first week of December, when Congress returns from its Thanksgiving recess. But Judiciary Chairman Peter W. Rodino Jr. (D-N.J.) said he is not sure when the panel will begin final markup. Several members said they hoped the committee could finish early next year.